

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

PETER EICHIE,

Plaintiff,

-against-

KILOLO KUAKAZI, ACTING
COMMISSIONER OF SOCIAL SECURITY
DEPARTMENT FOR THE UNITED STATES,

Defendant.

21-CV-10712 (LJL)

ORDER OF SERVICE AND
SCHEDULING ORDER

LEWIS J. LIMAN, United States District Judge:

Plaintiff, appearing *pro se*, brings this action for writ of *mandamus*, seeking to have the Court compel Defendant to take action in accordance with the May 27, 2021 Administrative Law Judge (ALJ) decision, in which the ALJ found Plaintiff to be disabled within the meaning of the Social Security Act. By order dated January 5, 2022, the Court granted Plaintiff's request to proceed without prepayment of fees, that is, *in forma pauperis*.

The Clerk of Court shall electronically notify the U.S. Attorney's Office for the Southern District of New York that this case has been filed.

In accordance with the Standing Order "Motions for Judgment on the Pleadings in Social Security Cases," 16-MC-0171 (Apr. 20, 2016):

- Within 90 days of the date of this order, the Commissioner must serve and file the Electronic Certified Administrative Record (e-CAR), which will constitute the Commissioner's answer, or otherwise move against the amended complaint.
- If the Commissioner wishes to file a motion for judgment on the pleadings, the Commissioner must do so within 60 days of the date on which the e-CAR was filed. The motion must contain a full recitation of the relevant facts and a full description of the underlying administrative proceeding.
- The plaintiff must file an answering brief within 60 days of the filing of the Commissioner's motion. The Commissioner may file a reply within 21 days thereafter.
- Memoranda in support of or in opposition to any dispositive motion may not exceed 25 pages in length; reply memoranda may not exceed ten pages in length. A party seeking to

exceed these page limitations must apply to the Court for leave to do so, with copies to all counsel, no fewer than seven days before the date on which the memorandum is due.

To conserve resources and promote judicial efficiency, and in an effort to achieve a faster disposition of this matter, it is hereby ORDERED that the parties must discuss whether they are willing to consent, under 28 U.S.C. § 636(c), to conducting all further proceedings before the assigned magistrate judge.

If both parties consent to proceed before the magistrate judge, counsel for the defendant must, by no later than March 7, 2022, file a letter with the Court, with an attached fully executed Notice, Consent, and Reference of a Civil Action to a Magistrate Judge form, the blank form for which is included in the information package accompanying this order (and also available at <https://www.nysd.uscourts.gov/node/754>). If the Court approves that form, all further proceedings will then be conducted before the assigned magistrate judge rather than before me. An information sheet on proceedings before magistrate judges is also attached to this order. Any appeal would be taken directly to the United States Court of Appeals for the Second Circuit.

If either party does not consent to conducting all further proceedings before the assigned magistrate judge, the defendant's counsel must file a letter by no later than March 7, 2022, advising the Court that the parties do not consent, *but without disclosing the identity of the party or parties who do not consent. **The parties are free to withhold consent without negative consequences.***

SO ORDERED.

Dated: January 10, 2022
New York, New York



LEWIS J. LIMAN
United States District Judge